

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the matter of	)	
	)	
National Exchange Carrier Association, Inc	)	
Tariff FCC No. 5	)	Transmittal No. 952
	)	
	)	

**ORDER**

**Adopted: September 13, 2002**

**Released: September 13, 2002**

By the Chief, Pricing Policy Division:

**I. INTRODUCTION**

1. Pursuant to section 204(a)(3) of the Communications Act of 1934, as amended,<sup>1</sup> the National Exchange Carrier Association, Inc. (NECA) filed Transmittal No. 952 on August 30, 2002, revising certain provisions of its interstate access Tariff FCC No. 5, to become effective September 14, 2002. NECA's tariff revisions would increase the traffic sensitive switched and special access recurring rate elements in its interstate access tariff.<sup>2</sup> In this filing, NECA is increasing the uncollectible portion of the traffic sensitive test period revenue requirement in its 2002 Annual Access Tariff filing by \$15 million.<sup>3</sup> NECA's reason for this increase is that, "In the first half of 2002 alone, NECA has observed an increase in uncollectibles that is unprecedented in its history."<sup>4</sup> NECA adds that the \$15,000 amount included in the traffic sensitive revenue requirement underlying its 2002 Annual Access Tariff Filing is "grossly inadequate" to cover increasing uncollectibles.<sup>5</sup>

2. On September 6, 2002, Sprint Corporation (Sprint), AT&T Corp. (AT&T), and General Communication, Inc., (GCI) filed petitions to reject, or, in the alternative, to suspend

<sup>1</sup> 47 U.S.C. § 204(a)(3).

<sup>2</sup> In the same transmittal, NECA also would delete outdated material relating to Digital Subscriber Line (DSL) service.

<sup>3</sup> National Exchange Carrier Association, Inc., Tariff FCC No. 5, Transmittal No. 952 at 3 (filed Aug. 30, 2002). *See also* National Exchange Carrier Association, Inc., Tariff FCC No. 5, Transmittal No. 939 (filed June 17, 2002) (*NECA 2002 Annual Access Tariff Filing*).

<sup>4</sup> National Exchange Carrier Association, Inc., Tariff FCC No. 5, Transmittal No. 952 at 2.

<sup>5</sup> *Id.* at 3.

and investigate NECA's tariff.<sup>6</sup> On September 12, 2002, NECA filed its reply.<sup>7</sup> In this order we grant the petitions so far as they ask us to suspend and investigate the NECA tariff, and we suspend for five months and set for investigation NECA's revisions to its interstate access Tariff FCC No. 5.

## II. DISCUSSION

3. We find that petitioners raise substantial questions regarding the lawfulness of NECA's tariff revisions that require further investigation. They question whether NECA has provided sufficient cost support for its proposed increase and satisfied the requirements of section 61.38 of the Commission's rules.<sup>8</sup> They further question whether NECA's revision is reasonable in light of existing protections against uncollectibles in its current tariff, established rate of return, and under bankruptcy law.<sup>9</sup> Finally, GCI questions whether NECA's revisions are impermissible retroactive ratemaking.<sup>10</sup> For these reasons, we conclude that substantial questions regarding the lawfulness of NECA's FCC Tariff No. 5, Transmittal No. 952 require further investigation, and we suspend it for five months.<sup>11</sup> The specific issues that will be the subject of the investigation will be identified in an upcoming designation order and may include, but not be limited to, the issues identified in this paragraph. We may also, by order, identify discrete issues that do not warrant further investigation.

## III. EX PARTE REQUIREMENTS

4. This investigation is a permit-but-disclose proceeding and is subject to the requirements of section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b), as revised. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required.<sup>12</sup> Other rules pertaining to oral and written presentations are also set forth in section 1.1206(b).

## IV. ORDERING CLAUSES

5. ACCORDINGLY, IT IS ORDERED that, pursuant to section 204(a) of the Communications Act of 1934, as amended,<sup>13</sup> and through the authority delegated pursuant to

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<sup>6</sup> National Exchange Carrier Association, Inc., Tariff FCC No. 5, Transmittal No. 952, Petition of Sprint to Reject or Alternatively Suspend and Investigate (Sept. 6, 2002) (*Sprint Petition*); AT&T Petition to Reject or Suspend and Investigate (Sept. 6, 2002) (*AT&T Petition*); Petition of General Communication, Inc. to Reject or Alternatively to Suspend and Investigate (Sept. 6, 2002) (*GCI Petition*).

<sup>7</sup> National Exchange Carrier Association, Inc., Tariff FCC No. 5, Transmittal No. 952, Reply of National Exchange Carrier Association, Inc. (Sept. 13, 2002). Verizon also filed "reply comments." Reply Comments of Verizon to Petitions to Reject or Suspend and Investigate NECA's Tariff (filed Sept. 12, 2002).

<sup>8</sup> 47 C.F.R. § 61.38. See, e.g., *Sprint Petition* at 2; *AT&T Petition* at 6; *GCI Petition* at 2, 3-4.

<sup>9</sup> See, e.g., *AT&T Petition* at 5-6, *GCI Petition* at 5-7.

<sup>10</sup> *GCI Petition* at 4-5.

<sup>11</sup> The suspension will not apply to outdated DSL material deleted from the tariff.

<sup>12</sup> See 47 C.F.R. §1.1206(b)(2), as revised.

<sup>13</sup> See 47 U.S.C. § 204(a).

sections 0.91 and 0.291 of the Commission's rules,<sup>14</sup> Tariff FCC No. 5, Transmittal No. 952 of the National Exchange Carrier Association, Inc., excluding the deletion of outdated DSL material, IS SUSPENDED for five months and an investigation IS INSTITUTED.

6. IT IS FURTHER ORDERED that the National Exchange Carrier Association, Inc. SHALL FILE a supplement within five business days from the release date of this order reflecting the suspension. The National Exchange Carrier Association, Inc. should cite the "DA" number on the instant order as the authority for the filing.

7. IT IS FURTHER ORDERED that the petitions to reject, or, in the alternative, suspend and investigate filed by Sprint Corporation, AT&T Corp., and General Communication, Inc. ARE GRANTED to the extent indicated herein and otherwise ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Tamara L. Preiss  
Chief, Pricing Policy Division  
Wireline Competition Bureau

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<sup>14</sup> See 47 C.F.R. §§ 0.91 and 0.291.